



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/171311

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2016, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 09, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's FS benefits effective January 1, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner completed a renewal on September 30, 2015.
3. On October 1, 2015, the Petitioner was referred to the FSET agency. A notice of referral was sent to the Petitioner.

4. On October 5, 2015, an FSET appointment notice was issued to the Petitioner informing him of an appointment on October 13, 2015.
5. On October 13, 2015, the Petitioner contacted the agency to report that he was unable to attend the scheduled appointment. The worker advised the Petitioner of the walk-in schedule and that a second appointment would be scheduled.
6. On October 15, 2015, an FSET appointment notice was issued to the Petitioner informing him of an appointment on October 22, 2015. Petitioner did not appear for the appointment.
7. On October 27, 2015, an FSET appointment notice was issued to the Petitioner informing him of an appointment on November 3, 2015. Petitioner did not appear for the appointment.
8. On November 4, 2015, the agency contacted the Petitioner via telephone. Petitioner was advised of his next appointment on November 12, 2015.
9. On November 10, 2015, the agency contacted the Petitioner to remind him of his appointment on November 12, 2015.
10. On November 5, 2015, an FSET appointment notice was issued to the Petitioner informing him of an appointment on November 12, 2015. Petitioner did not appear for the appointment.
11. On December 18, 2015, the agency issued a Notice of Decision informing the Petitioner that his benefits would be discontinued effective January 1, 2016 because he had used three time-limited benefit months. Petitioner received FS benefits for October, November and December, 2015 without meeting FSET work requirements.
12. On January 11, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement.

6.3.2 Non-Exempt ABAWD Participation Requirements

Non-exempt ABAWDs who do not meet the ABAWD work requirement will only be allowed to receive up to three full months of FoodShare (FS) benefits in a 36-month time period. ABAWDs subject to time-limited benefits (TLBs) may choose to meet the work requirement by participating in FSET.

As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FoodShare Wisconsin Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period.

The FSET enrollment process begins when an agency worker contacts an ABAWD by phone or mail to schedule an initial appointment. FSET Handbook, § 3.5. If an ABAWD misses the initial appointment, a

second appointment must be scheduled. The agency is required to schedule and provide notice of at least two initial appointments. Agency workers must document their attempts to schedule appointments. Id.

In this case, the Petitioner testified that he did not receive the appointment notices because of trouble with his mail. However, I note that he was notified via telephone of the walk-in schedule and was notified of at least two of his appointments via telephone. He testified that he did not talk with any agency workers.

The agency fulfilled its obligations to provide notice to the Petitioner for the enrollment process for FSET. The Petitioner received three months of time-limited FS benefits without meeting work requirements. The agency properly discontinued his FS benefits effective January 1, 2016.

CONCLUSIONS OF LAW

The agency properly discontinued the Petitioner's FS benefits effective January 1, 2016.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of March, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 1, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability